

REMARKS

Status of the Claims

Prior to entry of this Response, claims 30-34, 39, 40, 42 and 44-49 were present for examination. No claims have been amended, canceled, or added. Therefore, claims 30-34, 39, 40, 42 and 44-49 are presented for examination.

Claims 30-34, 39, 40, 42 and 44-49 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the cited portions of U.S. Patent No. 6,169,894 to McCormick et al. ("McCormick"), in view of the cited portions of U.S. Patent No. 5,200,954 to Teel ("Teel"). Reconsideration of the application in light of the remarks herein is respectfully requested.

Remarks

Claims 30 and 40

The 35 U.S.C. 103 rejections of claims 30 and 40 are respectfully traversed. Specifically, (a) the cited references fail to teach or suggest all of the limitations of these claims; (b) the cited references are not properly combinable; and (c) a clear reason for combining the references has not been articulated.

Claims 30 recites, in part, "establishing a second wireless channel upon which to broadcast the selected media program to the second wireless handset if the second wireless handset is determined to be outside the cell site coverage area, wherein the second wireless channel is different than the first wireless channel." Claim 40 includes similar recitations. The Office Action appears to concede that McCormick does not disclose these recitations, and instead relies on Teel to teach or suggest these recitations.

First, it is respectfully submitted that Teel also fails to teach or suggest the missing recitation. As a first example, claim 30 recites, in part, "to broadcast the selected **media program**" (emphasis added). However, no media program is taught or suggested by Teel.

As a second example, claim 30 recites, in part, "establishing a second wireless channel . . . **if the second wireless handset is determined to be outside the cell site coverage area**" (emphasis added). This recitation is also not taught or suggested by Teel at the cited passages.

More specifically, Teel appears to disclose establishing a second wireless channel simply because a caller requests a channel by pressing the push-to-talk (PTT) button on his microphone. Teel states that "the [first] site controller (S1) receives a call from a mobile radio . . . requesting a channel to communicate with a specific callee" (Teel, col. 2, ll. 49-51, emphasis added). Teel next describes that the first site controller sends a channel assignment to a multisite network switch, which sends a channel request to secondary site controllers (Teel, col. 2, ll. 59-66). Teel further states that "[u]pon receiving a channel request, these secondary site controllers assign a channel to the call" (Teel, col. 2, ll. 66-68, emphasis added). Essentially then, a channel appears to be assigned in Teel because of a call originated by a first caller, rather than "if the second wireless handset is determined to be outside the cell site coverage" as recited in claim 30.

Second, it is respectfully submitted that McCormick and Teel are not properly combinable. McCormick is directed to broadcast information to mobile units within a given geographic region (McCormick, Abstract). More specifically, information might first be requested through a mobile unit 140 (McCormick, col. 6, ll. 19-30). McCormick then explicitly discloses: "[B]ecause multiple users may be utilizing the same broadcast channel to receive the same information, the local cell site 1 also mutes the transmit (or reverse) voice channel of the particular mobile unit 140" (McCormick, col. 6, ll. 59-63, emphasis added). In other words, McCormick discloses that at least the mobile unit that initiated the request for the broadcast information is muted.

In contrast, Teel appears to disclose radio frequency signal transmission when "[a] caller requests a channel simply by pressing the push-to-talk (PTT) button on his microphone" (Teel, col. 2, ll. 51-53, emphasis added). Prior art must be considered in its entirety, and proposed modification cannot render the prior art unsatisfactory for its intended

purpose. MPEP 2145, paragraph X.D. The combination proposed by the Office Action would either render the caller in Teel unable "to-talk" because the voice channel would be muted, or force other users in McCormick to also listen to the caller talking when the other users just wish to hear broadcast information. Each is unsatisfactory for its intended purpose. Accordingly, it is respectfully submitted that McCormick and Teel are not properly combinable.

Third, "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." MPEP 2142. The Office Action appears to argue that one reason to combine McCormick and Teel is "to provide additional flexibility to the needs of the subscribers." Applicant respectfully requests clarification of the above statement if the rejections are to be maintained. For example, it is unclear which additional flexibility and/or needs are being referred to by the Office Action.

For at least these reasons, it is believed that claim 30 is allowable over the cited references. Claim 40 includes recitations similar to those discussed above with regard to claim 30, and is therefore believed to be allowable over the cited references for at least the same reasons as claim 30.

Claims 31-34, 39, 42 and 44-49

The remaining claims each depend, either directly or indirectly from claim 30 or 40, and are therefore also believed to be allowable at least by virtue of their dependence from an allowable base claim.

CONCLUSION

For at least all of the foregoing reasons, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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